

other unexplained payment of pay or allowances, does not attempt to obtain a reasonable explanation from an appropriate official. The recipient has a duty to ascertain the reason for the payment and to set aside the funds in the event that repayment should be necessary.

6. A waiver may be inappropriate in cases where a recipient questions a payment (which ultimately is determined to be erroneous) and is mistakenly advised by an appropriate official that the payment is proper, if under the circumstances the recipient knew or reasonably should have known that the advice was erroneous.

7. Financial hardship is not a factor for consideration in determining whether a waiver is appropriate.

8. Waiver determinations under these standards depend on the facts in each case.

APPENDIX C TO PART 284—SUBMITTING A WAIVER APPLICATION

A. WHO MAY APPLY FOR WAIVER

Any person (“applicant”) from whom collection is sought for a debt resulting from erroneous payments of pay or allowances (including travel and transportation allowances) may submit a waiver application under 10 U.S.C. 2774, 32 U.S.C. 716, and 5 U.S.C. 5584. Additionally, an authorized official of the Component concerned, or the Director, DOHA or designee may initiate a waiver application during the processing of a claim under 32 CFR part 281.

B. WHERE TO SUBMIT A WAIVER APPLICATION

An applicant must submit a waiver application to the Component concerned according to the guidance provided by that Component. A waiver application submitted somewhere other than to the Component concerned does not stop the calculation of the time limit as discussed in paragraph F to this Appendix. It is the applicant’s responsibility to submit the waiver application properly.

C. FORMAT OF A WAIVER APPLICATION

An applicant must submit a waiver application in the format prescribed by the Component concerned. It must be written and signed by the applicant (in the case of an application on behalf of a minor or incompetent person, there are additional requirements explained at paragraph E to this Appendix) or by the applicant’s authorized agent or attorney (there are additional requirements explained at paragraph D to this Appendix). In addition, the waiver application should include:

1. The applicant’s mailing address.
2. The applicant’s telephone number.
3. The applicant’s social security number when required by the Component concerned.

4. The amount for which waiver is requested.

5. An explanation why a waiver should be granted under the standards explained at Appendix B to this part.

6. Copies of documents referred to in the application.

7. Statements (that are attested to be true and correct to the best of the individual’s knowledge and belief) of the applicant or other persons in support of the application.

D. WAIVER APPLICATION SUBMITTED BY AGENT OR ATTORNEY

In addition to the requirements in paragraph C to this Appendix, a waiver application submitted by the applicant’s agent or attorney must include or have attached a duly executed power of attorney or other documentary evidence of the agent’s or attorney’s right to act for the applicant.

E. WAIVER APPLICATION SUBMITTED ON BEHALF OF A MINOR OR INCOMPETENT PERSON

In addition to the requirements in paragraph C to this Appendix:

1. If a guardian or committee has not been appointed, a waiver application submitted on behalf of a minor or incompetent person must:

i. State the applicant’s relationship to the minor or incompetent person.

ii. Provide the name and address of the person having care and custody of the minor or incompetent person.

iii. Include an affirmation that any moneys received shall be applied to the use and benefit of the minor or incompetent person, and that the appointment of a guardian or committee is not contemplated.

2. If a guardian or committee has been appointed, a waiver application on behalf of a minor or incompetent person must include or have attached a certificate of the court showing the appointment and qualification of the guardian or committee.

F. WHEN TO SUBMIT A WAIVER APPLICATION

An applicant must submit a waiver application so that it is received by the Component concerned within three years after the erroneous payment is discovered. The date of discovery is the date it is definitely determined by an appropriate official that an erroneous payment has been made. The time limit is set by 10 U.S.C. 2774, 32 U.S.C. 716, and 5 U.S.C. 5584, whichever applies. It may not be extended or waived. Although the issue of timeliness is usually raised on initial submission (as explained in paragraph B to Appendix D in this part), the issue may be raised at any point during the waiver application consideration process.